

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

SAMUEL HAYDEN,

Petitioner,

v.

Civil Action 2:15-cv-2927
Judge Smith
Magistrate Judge King

WARDEN, MARION CORRECTIONAL
INSTITUTION,

Respondent.

REPORT AND RECOMMENDATION

Petitioner filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254 but neither paid the \$5.00 filing fee nor sought leave to proceed *in forma pauperis*. On October 19, 2015, petitioner was granted thirty (30) days to either pay the \$5.00 filing fee or seek leave to proceed *in forma pauperis*. Order, ECF No. 5. Petitioner was also advised that his failure to do so will result in the dismissal of the action for failure to prosecute. *Id.* Petitioner has done neither and it appears that petitioner has abandoned the prosecution of this case.

It is therefore **RECOMMENDED** that his action be dismissed for failure to prosecute.

If any party seeks review by the District Judge of this *Report and Recommendation*, that party may, within fourteen (14) days, file and serve on all parties objections to the *Report and Recommendation*, specifically designating this *Report and Recommendation*, and the part thereof in question, as well as the basis for objection thereto. 28

U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Response to objections must be filed within fourteen (14) days after being served with a copy thereof. Fed. R. Civ. P. 72(b).

The parties are specifically advised that the failure to object to the Report and Recommendation will result in a waiver of the right to *de novo* review by the District Judge and waiver of the right to appeal the judgment of the District Court. See, e.g., *Pfahler v. Nat'l Latex Prod. Co.*, 517 F.3d 816, 829 (6th Cir. 2007) (holding that "failure to object to the magistrate judge's recommendations constituted a waiver of [the defendant's] ability to appeal the district court's ruling"); *United States v. Sullivan*, 431 F.3d 976, 984 (6th Cir. 2005) (holding that defendant waived appeal of district court's denial of pretrial motion by failing to timely object to magistrate judge's report and recommendation). Even when timely objections are filed, appellate review of issues not raised in those objections is waived. *Robert v. Tesson*, 507 F.3d 981, 994 (6th Cir. 2007) ("[A] general objection to a magistrate judge's report, which fails to specify the issues of contention, does not suffice to preserve an issue for appeal") (citation omitted)).

November 24, 2015
(Date)

s/Norah McCann King
Norah McCann King
United States Magistrate Judge